
From: Joel Vaturi[joel.vaturi@gmail.com]
Sent: Sunday, June 7, 2009 07:23:43 AM
To: Bill Schultz[bill.schultz@moonscoop.com]; jerome levy[jlevy@mesaglobal.com]; Jonathan Blinderman[jblinderman@glaserweil.com]; christophe di sabatino[christophe.disabatino@moonscoop.com]; benoit@moonscoop.com; Axel Dauchez[Dauchez@moonscoop.com]; nicolas atlan[nicolas.atlan@moonscoop.com]
Subject: Fwd: BEFORE OUR 9.30 CONF CALL

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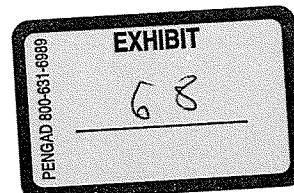
From: **Joel Vaturi** <joel.vaturi@gmail.com>
Date: 2009/6/7
Subject: BEFORE OUR 9.30 CONF CALL
To: "JM Josef Mandelbaum (5002)" <josefm@ag.com>, "ZW Zev Weiss (2701)" <Zev.Weiss@amgreetings.com>

Dear Zev and Josef,

Sorry for being blunt, but clearly having the lawyers run into multiple roadblocks including slow response times and raising issues that conflict with terms already agreed to in the Term Sheet, culminating with the most recent draft of the Asset Purchase Agreement on Saturday, strongly demonstrates AG's reluctance to live by the contract signed with Moonscoop and could possibly lead to a very nasty legal situation, one too many, you would agree!

These facts come in spite both Zev and your strong statement in the Cleveland Meeting with GTCR and Classic, stating that you were 100% committed to seeing this transaction close despite the Cookie Jar situation, and that you would live by the contract you had signed. Last night's conference call as well as the amended SPA clearly indicate the contrary.

Our term sheet provides for AG in exchange for the purchase price to be paid no later than June 7, 2009, to hand over 100% of both properties, which you claim you can do and I think this is well understood on our end. The agreement also requires that the properties be handed over with no pending material



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claims, and we now all know that this won't be the case unless a settlement takes place with Cookie Jar within the next hours. The relevant language from the Term Sheet reads:

"In the event that all of the Conditions to Closing are satisfied or waived by the parties, and the parties do not agree on the terms of a long form agreement by the Closing Date, MOONSCOOP shall purchase, and AG shall sell to MOONSCOOP, the Properties in accordance with the terms of this Agreement and, at the closing, (i) AG shall deliver to MOONSCOOP a statement of representations as to the ownership of and title to the Properties being transferred, the power and authority of the transferor parties and the enforceability thereon of this Binding Term Sheet. In addition, at the closing, AG shall represent and warrant to MOONSCOOP that, to the best of AG's knowledge, the Properties and AG's exploitation of the Properties, do not materially infringe on any third party's intellectual property rights and there are no material third party claims of infringement threatened or pending; and (ii) MOONSCOOP shall deliver to AG a statement of representations as to the power and authority of the transferee parties and the enforceability thereon of this Binding Term Sheet."

On Moonscoop/Classic/GTCR's side we have worked around the clock very hard to accommodate AG in a very short period of time to say the least, despite American Greeting's clear inability to deliver the Properties without a material claim against them. We understand that Cookie Jar has created a tough situation and we have only been trying to help you bridge it, and still are even at this very late stage.

Moonscoop/GTCR/Classic's language added to the long form addressing the current situation with Cookie Jar has only been inserted due to your inability to live by the terms of the contract as quoted up above. The draft that we received yesterday evening only makes it clear that American Greetings is finally admitting that it cannot deliver under the contract, and that you are trying to create escape mechanisms that the binding term sheet does not provide you with.

We understand and respect that AG would prefer to protect itself with respect to the current Cookie Jar litigation by accessing flexibility, but the language proposed by AG's counsel significantly erodes the rights of Mooscoop contained in the language already set for in the binding term sheet.

That leaves us with two choices:

1. work hard, as we all have to solve any outstanding issues within the next hours and close, AG

accepting to cooperate by granting the buyer with adequate reps & warranties as to the Cookie Jar matter, and forcefully defend and take any legal actions needed against Cookie Jar to deliver under the contract and the drag along provision, or

2. face the consequences of a very serious breach and suffer the legal and financial costs of such breach by AG. Make no mistake about it, no matter how long and unpleasant this might be, Moonscoop will take any necessary actions to preserve it's interests.

You already have to face two sets of legal battles:

- your battle against CJ
- financing our side of the battle against CJ, under the indemnification process

Are you sure you want to add one more front and face a substantial claim from Moonscoop for failing to deliver under the terms of the binding term sheet?

Not only will you not be collecting the price you set for this asset sale, but you will be left with having to finance 100% of the WFH agreement, and left with 3 sets of legal fees for years and pending claims to deal with. As you must be aware, the damages we will seek for are going to be of high magnitude, as we will be able to demonstrate with a great deal of precision what Moonscoop was making out of this deal and lost due to your failing to perform under our binding agreement. More so, these assets will never get sold until these matters are resolved, adding claims to claims will only scare everyone away.

Instead of validating the clean transfer of title to the Properties, the language included in the amended version of the SPA that was received on our side yesterday evening now allows AG to walk away from our transaction in the event that things do not progress well with the Cookie Jar litigation, including AG's unilateral right to terminate the sale on August 7 with no recourse for Moonscoop or Classic. Needless to say that it is unacceptable.

You are currently under the obligation to deliver these two properties free and clear of any material litigations, whether you settle with Cookie Jar or you elect to fight the case, Moonscoop has to remain without harm, and none of the components of the properties can be offered to Cookie Jar as part of any settlement with them.

If settlement terms are to be found with Cookie Jar, they can only be reached between American Greetings and Cookie Jar, with external parameters to both Strawberry Short Cake, Care bears and Moonscoop, and at American greetings expense only.

We would like to remind you that the \$99M financing has been in place for over a week now for the very purpose of closing this deal by this evening, and that neither GTCR/CLASSIC or Moonscoop will enter into such agreement as a stalking horse, and the newly added language by your councils has no place in this agreement and has not been agreed to in the term sheet. Our group is not in the business of placing money in escrow to allow American Greetings to benefit from an option to renegotiate the terms of this sale with Cookie Jar for a break up fee, our offer to close has always been and remains meaningful and genuine.

The original term sheet is binding, and there is no time left ,room or grounds for AG to redesign the original agreement or add new provisions that you now see as being what you should have negotiated earlier.

At 9.30 we have a conference call set with Classic/GTCR and finally decide where we stand only hours away from the deadline, we still very strongly want to close this deal in a friendly manner.

Closing or breaking this deal, is now solely in your hands, scaring our source of financing away by reinventing the scope and terms of this transaction at the very last minute before closing is your responsibility , and you should very seriously weigh the consequences before pulling the plug. GTCR and Classic have made a number of creative suggestions to make this happen, let's work hard during that call and see where it leads us.

Kind regards

Joel

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